

(4) After December 31, 1998, at least 75 percent of the fleet on U.S. operations specifications of a new entrant foreign air carrier must comply with Stage 3 noise levels.

(c) Calculations resulting in fractions may be rounded to permit the continued operation of the next whole number of Stage 2 airplanes.

[Doc. No. 26433, 56 FR 48659, Sept. 25, 1991, as amended by Amdt. 91-252, 61 FR 66185, Dec. 16, 1996]

**§ 91.869 Carry-forward compliance.**

(a) Any operator that exceeds the requirements of paragraph (b) of § 91.865 of this part on or before December 31, 1994, or on or before December 31, 1996, may claim a credit that may be applied at a subsequent interim compliance date.

(b) Any operator that eliminates or modifies more Stage 2 airplanes pursuant to § 91.865(b) than required as of December 31, 1994, or December 31, 1996, may count the number of additional Stage 2 airplanes reduced as a credit toward—

(1) The number of Stage 2 airplanes it would otherwise be required to reduce following a subsequent interim compliance date specified in § 91.865(b); or

(2) The number of Stage 3 airplanes it would otherwise be required to operate in its fleet following a subsequent interim compliance date to meet the percentage requirements specified in § 91.865(d).

[Doc. No. 26433, 56 FR 48659, Sept. 25, 1991; 56 FR 65783, Dec. 18, 1991]

**§ 91.871 Waivers from interim compliance requirements.**

(a) Any U.S. operator or foreign air carrier subject to the requirements of § 91.865 or 91.867 of this subpart may request a waiver from any individual compliance requirement.

(b) Applications must be filed with the Secretary of Transportation at least 120 days prior to the compliance date from which the waiver is requested.

(c) Applicants must show that a grant of waiver would be in the public interest, and must include in its application its plans and activities for modifying its fleet, including evidence of good faith efforts to comply with the

requirements of § 91.865 or § 91.867. The application should contain all information the applicant considers relevant, including, as appropriate, the following:

(1) The applicant's balance sheet and cash flow positions;

(2) The composition of the applicant's current fleet; and

(3) The applicant's delivery position with respect to new airplanes or noise-abatement equipment.

(d) Waivers will be granted only upon a showing by the applicant that compliance with the requirements of § 91.865 or 91.867 at a particular interim compliance date is financially onerous, physically impossible, or technologically infeasible, or that it would have an adverse effect on competition or on service to small communities.

(e) The conditions of any waiver granted under this section shall be determined by the circumstances presented in the application, but in no case may the term extend beyond the next interim compliance date.

(f) A summary of any request for a waiver under this section will be published in the FEDERAL REGISTER, and public comment will be invited. Unless the Secretary finds that circumstances require otherwise, the public comment period will be at least 14 days.

[Doc. No. 26433, 56 FR 48660, Sept. 25, 1991]

**§ 91.873 Waivers from final compliance.**

(a) A U.S. air carrier or a foreign air carrier may apply for a waiver from the prohibition contained in § 91.853 of this part for its remaining Stage 2 airplanes, provided that, by July 1, 1999, at least 85 percent of the airplanes used by the carrier to provide service to or from an airport in the contiguous United States will comply with the Stage 3 noise levels.

(b) An application for the waiver described in paragraph (a) of this section must be filed with the Secretary of Transportation no later than January 1, 1999, or, in the case of a foreign air carrier, no later than April 20, 2000. Such application must include a plan with firm orders for replacing or modifying all airplanes to comply with Stage 3 noise levels at the earliest practicable time.

(c) To be eligible to apply for the waiver under this section, a new entrant U.S. air carrier must initiate service no later than January 1, 1999, and must comply fully with all provisions of this section.

(d) The Secretary may grant a waiver under this section if the Secretary finds that granting such waiver is in the public interest. In making such a finding, the Secretary shall include consideration of the effect of granting such waiver on competition in the air carrier industry and the effect on small community air service, and any other information submitted by the applicant that the Secretary considers relevant.

(e) The term of any waiver granted under this section shall be determined by the circumstances presented in the application, but in no case will the waiver permit the operation of any Stage 2 airplane covered by this subchapter in the contiguous United States after December 31, 2003.

(f) A summary of any request for a waiver under this section will be published in the FEDERAL REGISTER, and public comment will be invited. Unless the secretary finds that circumstances require otherwise, the public comment period will be at least 14 days.

[Doc. No. 26433, 56 FR 48660, Sept. 25, 1991; 56 FR 51167 Oct. 10, 1991; Amdt. 91-276, 67 FR 46571, July 15, 2002]

#### § 91.875 Annual progress reports.

(a) Each operator subject to § 91.865 or § 91.867 of this chapter shall submit an annual report to the FAA, Office of Environment and Energy, on the progress it has made toward complying with the requirements of that section. Such reports shall be submitted no later than 45 days after the end of a calendar year. All progress reports must provide the information through the end of the calendar year, be certified by the operator as true and complete (under penalty of 18 U.S.C. 1001), and include the following information:

(1) The name and address of the operator;

(2) The name, title, and telephone number of the person designated by the operator to be responsible for ensuring the accuracy of the information in the report;

(3) The operator's progress during the reporting period toward compliance with the requirements of § 91.853, § 91.865 or § 91.867. For airplanes on U.S. operations specifications, each operator shall identify the airplanes by type, model, series, and serial number.

(i) Each Stage 2 airplane added or removed from operation or U.S. operations specifications (grouped separately by those airplanes acquired with and without base level);

(ii) Each Stage 2 airplane modified to Stage 3 noise levels (identifying the manufacturer and model of noise abatement retrofit equipment);

(iii) Each Stage 3 airplane on U.S. operations specifications as of the last day of the reporting period; and

(iv) For each Stage 2 airplane transferred or acquired, the name and address of the recipient or transferor; and, if base level was transferred, the person to or from whom base level was transferred or acquired pursuant to Section 91.863 along with the effective date of each base level transaction, and the type of base level transferred or acquired.

(b) Each operator subject to § 91.865 or § 91.867 of this chapter shall submit an initial progress report covering the period from January 1, 1990, through December 31, 1991, and provide:

(1) For each operator subject to § 91.865:

(i) The date used to establish its base level pursuant to § 91.861(a); and

(ii) A list of those Stage 2 airplanes (by type, model, series and serial number) in its base level, including adjustments made pursuant to § 91.861 after the date its base level was established.

(2) For each U.S. operator:

(i) A plan to meet the compliance schedules in § 91.865 or § 91.867 and the final compliance date of § 91.853, including the schedule for delivery of replacement Stage 3 airplanes or the installation of noise abatement retrofit equipment; and

(ii) A separate list (by type, model, series, and serial number) of those airplanes included in the operator's base level, pursuant to § 91.861(a)(1) (i) and (ii), under the categories "returned" or "purchased," along with the date each was added to its operations specifications.